

HOUSE BILL No. 1776

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-3-2-14; IC 35-46-1-11.8.

Synopsis: Tobacco merchandising. Prohibits cigarette manufacturers from requiring retailers to engage in certain display and advertising practices or other practices concerning another cigarette manufacturer as a condition to participate in certain marketing promotions. Requires certain retailers to provide employee assistance to purchase individual packages of cigarettes.

Effective: July 1, 2003.

Pelath, Whetstone, Kruse, Summers

January 21, 2003, read first time and referred to Committee on Commerce and Economic Development.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1776

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations; consumer sales and credit.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-3-2-14 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]: **Sec. 14. (a) A cigarette retailer may enter into an**
4 **agreement and participate in a cigarette manufacturer's**
5 **merchandising, advertising, display, or consumer discount**
6 **promotional program in which the retailer:**

7 (1) **provides cigarette merchandising, shelf space, stocking, or**
8 **display space to the manufacturer;**

9 (2) **conducts the manufacturer's consumer promotion and**
10 **discount program and provides the promotions and discounts**
11 **to customers; and**

12 (3) **is paid or compensated by the manufacturer for**
13 **performing the manufacturer's consumer promotion and**
14 **discount program.**

15 (b) **Subject to subsection (c), a cigarette manufacturer may:**

16 (1) **enter into an agreement with a retailer concerning the**
17 **manufacturer's consumer promotion and discount program;**



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(2) provide a retailer with a monetary payment or other compensation for participating in the manufacturer's consumer promotion and discount program; and

(3) provide consumer promotions and discounts to a retailer for the retailer to furnish to consumers.

(c) Except as provided in subsection (b), a cigarette manufacturer may not do the following:

(1) Require the retailer take certain actions concerning another manufacturer's products as a condition for the retailer to participate in a consumer or product promotion, or to receive a consumer cigarette price discount, or any compensation, rebate, or other inducement relating to the promotion. However, the manufacturer may require the retailer to provide the promotion or discount to consumers and advertise and display the promotion and the promoted or discounted product to consumers.

(2) Require a retailer to allocate to the manufacturer a specified percentage of the retailer's merchandising, stocking, display, shelf, or advertising space.

(3) Prevent, restrict, or limit a retailer from stocking, displaying, advertising, or participating in a program of another manufacturer.

(4) Prevent, restrict, or limit a retailer from determining the size or location of the space that the retailer uses to stock, display, promote, or advertise cigarettes.

(5) Require or prevent a retailer from raising, reducing, or retaining the price on another manufacturer's products.

SECTION 2. IC 35-46-1-11.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.8. (a) This section does not apply to the following:

(1) A retail establishment that derives at least seventy-five percent (75%) of the establishment's revenue from tobacco and tobacco related products.

(2) A retail establishment that prohibits an individual who is less than eighteen (18) years of age to enter the establishment.

(b) A retail establishment may not offer for sale or display individual packages of cigarettes that allow a customer access to the cigarettes without the assistance of an employee of the retail establishment.

(c) A person who violates this section commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for

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1 an infraction committed under this section must be imposed as
2 follows:

3 (1) If the person has not been cited for a violation of this
4 section in the previous ninety (90) days, a civil penalty of fifty
5 dollars (\$50).

6 (2) If the person has had one (1) violation in the previous
7 ninety (90) days, a civil penalty of one hundred dollars (\$100).

8 (3) If the person has had two (2) violations in the previous
9 ninety (90) days, a civil penalty of two hundred fifty dollars
10 (\$250).

11 (4) If the person has had at least three (3) violations in the
12 previous ninety (90) days, a civil penalty of five hundred
13 dollars (\$500).

14 A person may not be cited more than once every twenty-four (24)
15 hours.

16 (d) Notwithstanding IC 34-28-5-5(c), civil penalties collected
17 under this section must be deposited in the youth tobacco education
18 and enforcement fund established by IC 7.1-6-2-6.

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